



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Ref: 8P-AR

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ACTION MEMORANDUM

SUBJECT: Proposed Rule: Approval and Promulgation of Federal Implementation Plan for Existing Oil and Natural Gas Well Production Facilities; Uintah and Ouray Indian Reservation in Utah (SAN 6560)

FROM: Carl Daly, Director
Air Program

THRU: Darcy O'Connor, Acting Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

TO: Shaun McGrath
Regional Administrator

PURPOSE

Attached for your signature is a proposed reservation-specific Federal Implementation Plan (FIP) for oil and natural gas production facilities on the Indian country lands within the Uintah and Ouray Indian Reservation (U&O Reservation), Utah. This proposed rule would establish enforceable control requirements for reducing volatile organic compound (VOC) emissions from oil and natural gas production activities within the exterior boundaries of the U&O Reservation. Specifically, the proposed rule would fill a regulatory gap by requiring owners and operators of existing oil and natural gas production facilities to reduce VOC emissions in a manner equivalent to what is already required by the Utah Department of Environmental Quality (UDEQ) for existing oil and natural gas production facilities located in the state but outside the Indian country lands within the U&O Reservation.

DEADLINE

No deadlines apply to this action. However, we plan to finalize the draft FIP soon after the national oil and natural gas rulemakings proposed in September 2015 are finalized, which we expect will happen in early summer 2016.

OVERVIEW

Ozone levels in the Uinta Basin have exceeded the ozone standard numerous times and represent a serious public health concern. Approximately 94 percent of VOC emissions and 85 percent of NO_x emissions from oil and natural gas operations in the Uinta Basin occur in Duchesne and Uintah Counties, of which approximately 80 percent of the VOC emissions and 75 percent of the NO_x emissions occur on the Indian country lands within the U&O Reservation. On the Indian country lands within the U&O Reservation, approximately 98 percent of VOC emissions and 68 percent of NO_x emissions released are from existing oil and natural gas production operations. Furthermore, approximately 70 percent of the active producing oil and natural gas wells in the Uinta Basin are on Indian country lands within the U&O Reservation and are largely unregulated, with no control obligations. The proposed FIP will fill a regulatory gap with regard to controlling VOC emissions from existing sources within the U&O Reservation that are not covered by the national FIP for Indian country that EPA proposed in September 2015. The proposed requirements in this FIP are intended to address the two concerns of compromised air quality in the Uinta Basin and inconsistent regulatory requirements across the U&O Reservation and State of Utah jurisdictions. The proposed FIP would result in an almost 40 percent reduction of VOC emissions, and would help mitigate the area's potential future nonattainment designation.

The proposed rule will establish federally enforceable requirements for owners and operators of existing oil and natural gas well production facilities that have over 4 tons per year of VOC emissions from glycol dehydrators, storage tanks, and pneumatic pumps, which is the same threshold Utah uses. Existing facilities over the threshold would be required to install a flare or other control device with 98 percent VOC destruction efficiency for emissions from storage tanks, glycol dehydrators, and pneumatic pumps. This is consistent with Utah's air permit rules. This rule will be implemented by EPA (or by the Ute Indian Tribe, if delegated the authority to do so) until replaced by an EPA-approved Tribal Implementation Plan. We are proposing providing 18 months for operators to retrofit their existing facilities, which allows for operators to distribute retrofits across that time for efficient resource management. We anticipate emission reductions beginning in late 2016 prior to the 2016-2017 winter ozone season, which may help lower the Uinta Basin's nonattainment classification to Marginal.

The proposed rule requirements are consistent with other Region 8 states' requirements for crude oil, condensate, and produced water storage tanks, glycol dehydrators, pneumatic pumps, closed-vent systems, enclosed combustors and utility flares, pneumatic controllers, tank truck loading and unloading, and equipment leak detection and repair. However, we are proposing levels of control that seek primarily to make requirements consistent across the Uinta Basin on and off the Indian country lands within the U&O Reservation and to protect air quality. Therefore, the requirements in the proposed rule most closely reflect UDEQ requirements for existing oil and natural gas production facilities in the Uinta Basin.

This proposed rule will publish in the Federal Register and will provide for a 45 day comment period. After addressing any public comments, the FIP will be issued as a final rule.

ANTICIPATED PUBLIC AND STAKEHOLDER RESPONSE

The oil and natural gas operators, Ute Indian Tribe, UDEQ, County Commissioners, environmental groups and the public are the stakeholders of our proposed action. This rule will apply to any person who owns or operates an existing oil and natural gas production facility located on Indian country lands within the U&O Reservation. Therefore, we anticipate that the oil and natural gas operators of the more than 5,000 facilities expected to be impacted by this rule may be concerned with the cost to retrofit their existing equipment. However, operators have been cooperative in providing input for the development of the rule, and the provisions of the rule are already common industry practice for new sources, as well as existing sources in State of Utah jurisdictions in the Uinta Basin. Operators, the Ute Indian Tribe and County Commissioners have expressed concerns about the impact of the rule on the Tribe's ability to develop their oil and natural gas resources. However, we have assured them that the proposed rule may prepare the basin to receive a lower ozone nonattainment classification, fewer restrictions on future oil and natural gas development, and more flexibility in returning to attainment status. UDEQ is supportive of the rule because it will improve air quality and correct the current discrepancy between what is required for oil and natural gas sources on the U&O Reservation and what Utah requires for controlling air emissions on state land. Environmental groups and the public are anticipated to welcome the rule as an effort to increase the protection of public health and the environment on the U&O Reservation and will likely express concern that the rule does not go far enough to regulate oil and natural gas in the basin.

INTERNAL DEVELOPMENT AND REVIEW PROCESS

This action was developed under the Tier 3 rulemaking process. Region 8's Air Program worked with Office of Regional Counsel, Office of Air Quality Planning and Standards, Office of General Counsel and the Office of Policy throughout the proposed rule's development. All internal comments have been considered and changes, where appropriate, have been incorporated. OGC concurred with this proposed rule.

INTERAGENCY DEVELOPMENT AND REVIEW PROCESS

Under Executive Order 12866, the Office of Management and Budget (OMB) determined this action to be a "significant" regulatory action. OMB requested a briefing and an opportunity to review the proposed rule. Region 8 briefed OMB on January 28th and no significant issues were raised nor substantive changes made to the proposed action at that time. OMB completed interagency review on DATE.

IMPACTS

This rule will apply to any person who owns or operates an existing oil and natural gas production facility located on Indian country lands within the U&O Reservation. We estimate that for the U&O Reservation as a whole, the rule would result in an almost 40 percent reduction of VOC emissions from all anthropogenic sources of. This corresponds to an expected reduction of approximately 41,000 tons per year (tpy) of VOC emissions.. In addition to those reductions, we estimate that the proposed rule

will result in the co-benefit reductions of about 8,700 tpy of hazardous air pollutants (benzene, toluene, xylene, etc.) and about 78,000 tpy of methane. We also estimate that over 1.8 billion cubic feet of natural gas per year would be returned to market. This is enough natural gas to meet the energy needs of more than 78,000 U.S. homes annually.

Using EPA's control cost estimates, the total annualized cost of implementing all of the controls outlined in the proposed FIP is estimated to be approximately \$78 million or \$1,800 dollar per ton of VOC reduced, which is considered by states and EPA to be within the range of reasonable and cost effective. Many of the strategies and controls required by the draft FIP would benefit operators by reducing the amount of natural gas vented to the atmosphere. These savings are not included in the cost analysis, but would increase the cost effectiveness of the rule as owners and operators would gain revenue from the sale of the natural gas not vented to the atmosphere.

Based on our assessment, we determined that this action does not have the potential to cause disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. Our primary goal in developing this rule is to protect the communities in and near Indian country lands within the U&O Reservation, where existing oil and natural gas production operations have been shown to contribute to exceedances of the NAAQS. The impacts of this rule are expected to be beneficial, rather than adverse, and its benefits are expected to accrue in communities in and near Indian country.

This proposed action will also provide regulatory certainty to owners and operators, by imposing requirements that are consistent with those applicable to such existing sources that are regulated by the UDEQ because they are not on Indian country lands within the U&O Reservation. This will ensure that air quality is protected equally on state and tribal lands and avoid disproportionate impacts.

STAKEHOLDER INVOLVEMENT

EPA and the Ute Tribe co-hosted a meeting on April 14, 2015 with the oil and natural gas industry to discuss getting emission reductions on existing and new sources on the Reservation. As follow-up to that meeting, Western Energy Alliance (the industry's trade group) sent a June 18, 2015 letter to Ute Business Committee Chairman Chapoose that outlines what they are currently doing to address oil and natural gas emission controls on the U&O Reservation, i.e. voluntary, discretionary strategies and what is required by regulations, NEPA Records of Decision, and consent decrees. In its letter, the Western Energy Alliance did not commit to any additional actions to reduce emissions from existing sources.

Tribal Air Program staff participated in stakeholder meetings EPA held in September and October 2015 with the oil and natural gas industry, the state of Utah, environmental groups, County Commissioners and other interested stakeholders. The purpose of these meetings was to get input on the concept of a FIP for existing oil and natural gas sources on the Indian country lands within the U&O Reservation. As described above in the Anticipated Public and Stakeholder Response, operators, County Commissioners and the Ute Indian Tribe expressed concerns about impacts to economic development in Indian country, while the state agency, environmental groups and other stakeholders were supportive of the potential

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regulation's impact of protecting public health and the environment.

PEER REVIEW

The Office of Partnerships & Regulatory Assistance has followed the agency's Peer Review Policy with respect to the underlying influential scientific information supporting this action.

PROCEDURAL REVIEW

The delegation of authority for you to sign this federal register action is contained in delegation 7-10. Among other things, delegation 7-10 indicates that it does not apply to actions establishing alternative interpretations to established agency policy if these interpretations have not been reviewed through the "consistency process." This action does not establish alternative interpretations to established agency policy. The consistency process is not applicable to this action.

This document was prepared by Jody Ostendorf, Air Quality Planning Unit who may be reached at (303) 312-7814. Legal questions should be directed to Mike Boydston, Office of Regional Counsel, at (303) 312-7103.

RECOMMENDATION

I recommend that you sign the attached proposed rule for publication in the Federal Register.

Attachment

